IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 5470 of 1998

Between:

1 Siris Limited, L.B.Nagar, Hyderabad-500 074, Rep. by its Regional Officer, Sri V. Venkateswarlu, S/o. Koteswara Rao.
2 Sudarshan Drugs, Plot No.63/A, IDA, Jeedimetla, Hyderabad-500 055. Rep. by its Regional Officer, Sri V. Venkateswarlu S/o Koteswara Rao,
3 Biochem Industries, L.B.Nagar, Hyderabad-500 963, rep. by its Regional Officer, Sri V. Venkateswarlu, S/o. Koteswara Rao,
4 Sai Ceramics & Refractories, Opp.I.D.P.L. Kukatpally Road, Balanagar, Hyderabad-500 037, represented by its Sales Executive Sri Harry Clayton, S/o D. Clayton.
5 Diamond Shamlok Silicates, 95/1B, G.N.T. Road, Periyavattu, Ramapuram(P), Tada (M), Nellore(Dist), A.P., rep. By its Partner M.S. Jain, S/o Lokaraj Jain.
6 Sri Shirdi Saibaba Tobacco Traders, Sitarama Nagar, Mangalagiri Road, Guntur, rep. by its Managing Partner, K. Suryanarayana, S/o. Seshaiah

..... PETITIONERS

AND

Singareni Collieries Company Limited, Rep. by its Chairman,
Post Box No. 18, Khairatabad, Mehar Manzil,
Red Hills, Hyderabad,

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in treating the petitioners as unlinked customers and collecting 20% additional levy on notified prices of Coal as per price notification No. 3/96-97 dt. 14-3-1997 issued by it is irrational, arbitrary, discriminatory and violative of Article 14 of the Constitution of India and restrain the respondent-company from collecting 20% additional price from the petitioners and consequently direct refund the amounts already collected.

Counsel for the Petitioners: MR.K.HARINATH (Not present)

Counsel for the Respondent: MR.K.SRINIVASAMURTHY, SC for Singareni Collieries

The Court made the following :

ORDER:

This writ petition is filed seeking to declare the action of the respondent in treating the petitioners as unlinked customers and collecting 20% of additional levy on notified prices of coal as per price notification No.3/96-97, dated 14-03-1997 from the petitioners, as irrational, arbitrary and discriminatory and to restrain the respondent from collecting 20% additional price from the petitioners, and consequently to direct refund of the amounts already collected.

None appears for the petitioners. It is submitted by the learned Standing Counsel for the respondent that the subject matter of this writ petition is squarely covered by a Division Bench judgment of this Court in W.P.No.21136 of 1997 and batch, dated 31-03-1998, wherein this Court elaborately considered the matter and dismissed the writ petitions. The operative portion of the order reads as under:

> "… The paramount consideration in placing them in core sector and extending them the benefit of linkage is their intrinsic importance and the role they play in national building activities and the propensities of public utility they possess. The same considerations will hold good even for charging lesser price from them. The special importance has been given to those core industries because the requirement of coal are on high side either for captive power generation or for other uses in manufacturing operations. Any substantial increase in the price of coal will have a substantial effect on the cost of finished products of vital importance and the cost of service to public. As regards the reason for including cement industry in the core sector, it is explained by the respondents counsel in the form of written note that 70% of the cement manufactured in the country is utilized by the Central or State Governments for the construction of projects, Bridges, roads etc. Any increase in the price of coal will result in the increase of cost of cement and the additional expenditure/cost will have a chain reaction on the budgetary allotments and require additional funds. Moreover, it is to be noted that in the case of cement and steel industries as well as the other priority consumers, the consumption of coal is quite high; whereas in the case of non-linked industries, the coal consumption is minimal and the increase in the price of coal will not result in any appreciable increase in the cost of such products manufactured by non-linked sector. Thus, the nature and importance of the industry or consumer from the national perspective, the extent of consumption of coal either for captive power generation or for use in the manufacture legitimately call for a special treatment as far as these customers are concerned. By charging lesser price to such industries or

consumers and by evolving dual price policy, it cannot be said that that equals are treated unequally or that the classification does not rest on rational basis. We fail to understand how the respondent-Company had practised an indidious or hostile discrimination. On the one hand, the objective of dual pricing policy seems to be to ensure that the core sector industries or customers are not unduly burdened with price increase, while at the same time the company gets adequate return for its products so as to cover the financial deficit. The colliery can take full advantage of the decontrol and generate additional funds to balance its budget and, so to say, to make both ends meet. We are, therefore of the view that charging lesser price from classified core linked industries does not give rise to hostile discrimination. Hence, we find no substance in the contention based on Art.14.

The writ petitions must therefore fail and are dismissed with consolidated costs of Rs.1,000/- in each writ petition."

In the circumstances, following the above judgment, this writ petition is also dismissed for the same and similar reasons. No costs.

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N.V. RAMANA, J

Date: 04-03-2005

Svv

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Chairman, Singareni Collieries Company Limited,
   Post Box No. 18, Khairatabad, Mehar Manzil,
   Red Hills, Hyderabad,

2 Two CD copies

*Form-NIC-OGS/WP{**PRASAD**}*